

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

PREAMBLE

1. Sections Affected

| | <u>Rulemaking Action</u> |
|-----------|---------------------------------|
| R4-19-201 | Amend |
| R4-19-202 | Amend |
| R4-19-203 | Amend |
| R4-19-204 | Amend |
| R4-19-205 | Amend |
| R4-19-206 | Amend |
| R4-19-207 | Amend |
| R4-19-208 | Amend |
| R4-19-209 | Amend |
| R4-19-210 | Amend |
| R4-19-211 | Amend |
| R4-19-212 | Amend |
| R4-19-213 | Amend |
| R4-19-214 | Amend |

2. The specific authority for the rulemaking, including both authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statutes: A.R.S. §§ 32-1606(A)(1), 32-1606(B)(1), (B)(2), (B)(3), and (B)(8)

Implementing statutes: A.R.S. § 32-1644

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 6 A.A.R. 4610, December 8, 2000

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

| | |
|------------|---|
| Name: | Pamela K. Randolph Nurse Practice Consultant |
| Address: | Board of Nursing 1651 East Morten, Suite 210 Phoenix, Arizona 85020 |
| Telephone: | (602) 331-8111, Ext. 139 |
| Fax: | (602) 906-9365 |

5. An explanation of the rule, including the agency's reason for initiating the rule:

The Board of Nursing is initiating rulemaking on R4-19-201 through 214 to comply with the recommendations in the Board's last 5-year rules review. In addition, due to significant changes in the health care and nursing educational environment, changes have been proposed to the rules addressing: nursing program administration, program resources, program administrator qualifications and duties, faculty qualifications and duties, student policies and admissions, curriculum, program approvals, curriculum changes for Board-approved programs, rescission of program approval, requirements for nationally accredited programs, voluntary termination of a program, and approval of reentry update programs. Many of the changes to R4-19-201 through 214 involve clarifying the language of the rule, adding measurable criteria, and including specific grounds for adverse action by the Board. Specific changes are detailed below.

1. The qualifications for faculty in professional nursing programs and directors of practical nursing programs have been changed to reflect hiring patterns in the community.
2. Programs will be required to submit "mission and goals" rather than a philosophy and curriculum requirements have been amended to reflect to reflect current trends in education.
3. The proposed rules require educational materials and resources rather than a library reflecting the movement toward electronic sources of information.
4. The duties of director of a nursing program have been refined to reflect current role expectations of the position.
5. References to appeals and hearing have been revised consistent with A.R.S. Title 41 Chapter 6 and 4 A.A.C. 19, Article 6.
6. The approval period for Board-approved nursing programs has been lengthened to a maximum of 5 years and the approval period for refresher courses has been lengthened to 4 years.
7. The rules have deleted the annual report requirement for programs and the requirement for a Board representative to accompany site visitors from national accreditation agencies when renewing accreditation status.
8. Provisions were added requiring programs to appoint an administrator in a timely manner when a vacancy exists because several programs operated with vacancies in this position in the past.
9. A passing standard for NCLEX ® was added to reflect outcome based criteria.
10. The time to respond to a notice of deficiency has been lengthened to allow programs a more reasonable time to formulate a plan of correction.

The Board believes that the changes to Article 2 will enhance the safety and welfare of the public by providing clear, concise language and reasonable standards for Arizona nursing programs.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

Some amendments to R4-19-201 through R4-19-214 are expected to result in substantial savings for both the Board and nursing programs. The Board will save staff resources by not having to survey programs that are nationally accredited. Currently there are 17 nationally accredited programs in Arizona. Surveying one program involves 40-60 hours of the Nurse Practice Consultant's time with overnight travel and per diem expenses. The consultant current averages 2-3 nationally accredited program surveys per year. This change will also save program resources by not requiring accredited programs to mail copies of studies to the Board.

The change in the educational preparation required for a director of a practical nursing program could result in savings to the program by allowing it to hire a director with a baccalaureate degree at a lower salary than a masters-prepared director would command.

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The flexibility the proposed rules allow in hiring of faculty for professional nursing programs is expected to result in a positive economic benefit for professional programs by potentially expanding the pool of faculty applicants and allowing programs to hire a less expensive, more available, baccalaureate- prepared nurse for clinical teaching. This change may help programs that are currently prevented from expanding by the inability to hire qualified faculty.

Small businesses will not be directly affected by the proposed rule. All parent institutions of programs in Arizona fail to meet the definition of small business as defined in A.R.S. § 41-1001(19). Specifically all but one is publicly owned and all employ more than 100 persons on a full time basis. Currently no small businesses sponsor refresher courses. Small businesses wishing to offer refresher courses would benefit from the proposed revisions to R4-19-214 since they allow for a longer period of approval. A possible indirect benefit to small businesses could occur if a program is able to expand due to the ability to secure qualified faculty thereby increasing the pool of qualified job applicants for small businesses that employ nurses.

Consumers will not be directly affected by the proposed rules. The rules may indirectly benefit consumers of health care by making the expansion of nursing programs more economically feasible and therefore increasing the supply of nurses in this period of nursing shortage. Because the changes will allow programs to hire less expensive faculty, they should not result in tuition increases in nursing programs. Nursing students will benefit from the improved specific criteria for resources that must be present in all nursing programs.

9. The name and address of agency personnel with whom persons may communicate regarding accuracy of the economic, small business, and consumer impact statement:

Name: Pamela K. Randolph
Nurse Practice Consultant

Address: Board of Nursing
1651 East Morten, Suite 210
Phoenix, Arizona 85020

Telephone: (602) 331-8111, Ext. 139

Fax: (602) 906-9365

10. The time, place, and nature of the proceedings of the adoption, amendment, or repeal of the rule, or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Oral proceeding on this Article will be held on or after May 21, 2001 with the exact date, place and time to be announced. Persons wishing to make comment should contact the person listed in paragraphs #4 and #9.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

ARTICLE 2. ARIZONA NURSING PROGRAMS

Section

| | |
|------------|--|
| R4-19-201. | Organization and Administration |
| R4-19-202. | Resources, Facilities, Services, and Records |
| R4-19-203. | Administrator; Qualifications and Duties |
| R4-19-204. | Faculty; Personnel Policies; Qualifications and Duties |
| R4-19-205. | Students; Policies and Admissions |
| R4-19-206. | Curriculum |
| R4-19-207. | Application for Provisional Initial Approval of a Nursing Program |
| R4-19-208. | Application for Full Approval |
| R4-19-209. | Nursing Program Change Curriculum Changes for Board Approved Programs |
| R4-19-210. | Renewal of Approval of a Board-approved Nursing Program |

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- R4-19-211. Rescission of Approval of a Nursing Program or a Refresher Program
R4-19-212. Nationally Accredited Nursing Programs; ~~Continuing Approval~~
R4-19-213. Voluntary Termination of a Nursing Program or a Refresher Program
R4-19-214. Approval of ~~Reentry~~ Refresher Update Programs

ARTICLE 2. ARIZONA PROFESSIONAL AND PRACTICAL NURSING PROGRAMS

R4-19-201. Organization and Administration

- A. The parent institution of a nursing program shall be regionally accredited.
- B. A nursing program shall have a written statement of ~~philosophy~~ mission and ~~objectives, goals~~ consistent with those of the parent institution, ~~which serves as a basis for curriculum structure.~~
- ~~1. The statement shall take into consideration the individual differences of students, including their cultural and ethnic background, learning styles, goals, and support systems.~~
 - ~~2. The statement shall express the fundamental beliefs and basic educational principles to which the faculty subscribe. The statement shall include the faculty's beliefs in relation to:~~
 - ~~a. Nursing;~~
 - ~~b. Nursing education;~~
 - ~~c. The teaching and learning process, including the role of the faculty and students in this process; and~~
 - ~~d. The role of the graduate within the totality of nursing practice.~~
- C. A nursing program shall be an integral part of the parent institution and shall have comparable status with other academic units of the parent institution.
- D. ~~The A~~ nursing program shall maintain an organizational chart ~~which that~~ identifies the relationships, lines of authority, and channels of communication within the program, and between the program, and the parent institution.
- E. ~~The A~~ nursing program shall have a written agreement between the program and each clinical facility ~~at which where~~ clinical experience is provided to the program's students ~~which that~~:
- ~~1. defines~~ Defines the rights and responsibilities of ~~each party~~ both the clinical facility and the nursing program,
 - ~~2. Lists including agreements on~~ the role and authority of the governing bodies of both the clinical facility and the nursing program;
 - ~~3. Allows faculty members of the program the right to select learning experiences for students, and~~
 - ~~4. Contains a termination clause that provides sufficient time for enrolled students to complete the clinical experience upon termination of the agreement.~~
- F. ~~The A~~ nursing program shall ~~assure~~ have written policies that provide a mechanism for student participation input in determining into the development of academic policies and procedures, ~~curriculum planning,~~ and participation in the evaluation of faculty effectiveness through student membership on policy and evaluation committees and through policy statements and evaluation procedures plan.
- G. ~~An administrator of a nursing program shall provide evidence that the~~ The nursing program shall have written policies and procedures of the program are reviewed on a regular schedule, ~~which are consistent with those of the parent institution and shall provide a regular schedule for their review.~~
- H. ~~The A~~ nursing program shall have a written plan for the systematic evaluation of the total program. The plan shall include the methodology, frequency of evaluation, assignment of responsibility, and evaluative criteria. The following areas shall be evaluated:
1. Organization and administration of the program;
 - ~~2. Philosophy and objectives~~ Mission and goals;
 3. Curriculum;
 4. Education facilities, resources, and services;
 5. Clinical resources;
 6. Students' achievement of program educational outcomes;
 7. Graduates' performance on the licensing examination;
 - ~~8. Graduates' nursing competence;~~
 - ~~9. Faculty~~ The performance of the faculty; and
 - ~~10. Protection of patient safety; and~~
 - ~~11. The methods and instruments used for evaluative purposes.~~
- I. A nursing program shall notify the Board of a vacancy or pending vacancy in the position of nursing program administrator within 15 days of the program's awareness of the vacancy or pending vacancy and do the following:
1. Appoint an interim administrator or a permanent administrator who meets the requirements of R4-19-203 (A) within 15 days of the effective date of the vacancy, and
 2. Notify the Board of the appointment of an interim or permanent administrator within 15 days of appointment and provide a copy of the administrator's credentials to the Board.

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R4-19-202. Resources, Facilities, Services, and Records

~~A.~~ The parent institution shall provide financial and administrative support and resources to the nursing program, including the following:

- ~~1. Physical facilities for the nursing program;~~
- ~~2. A library and instructional materials; and~~
- ~~3. Secretarial, clerical, and other support personnel services.~~

~~BA.~~ The parent institution of a nursing program shall consider the size of the program faculty and number of program students and shall provide facilities for the program that meet the following requirements: provided for the program shall meet the requirements of the nursing program in relation to the size of the faculty and the number of students.

- ~~1. The administrator shall have a Δ private office for the administrator of the nursing program;~~
- ~~2. Faculty offices shall be that are conveniently located and comparable to other faculty offices of the parent institution and of such number and size to provide the faculty with the ability to work uninterrupted and shall provide have privacy for conferences with students;~~
- ~~3. Space for private faculty-student conferences;~~
- ~~34. There shall be space Space for clerical staff, records, files, and equipment;~~
- ~~45. Classrooms, learning laboratories, and conference rooms shall be provided in such number, that provide seating for students enrolled in a course, accommodate audio-visual materials, are free of distractions, and are of size, and type to meet the needs of the number of students and the educational purposes for which the rooms are used;~~
- ~~56. There shall be secretarial Secretarial and clerical support personnel to assist the administrator and faculty; and~~
- ~~67. There shall be a library which shall have holdings or access Access to a collection of educational holdings materials and resources which that are current and ~~at the level of content of the curriculum~~ sufficient to meet program goals and of such number to meet the needs of the students and faculty. The parent institution shall establish reasonable hours for access to the collection and ensure a convenient location for viewing the educational materials and resources.~~
- ~~a. There shall be provision made for regular additions to and deletions from the library collection by the nursing program.~~
- ~~b. The library facilities and policies of operation shall promote effective use in its environment, accessibility, and hours of operation.~~

~~CB.~~ The Δ nursing program shall maintain current and accurate records of the following:

- ~~1. Records of the students Student records including admission materials, courses taken, grades received, scores in any standardized tests taken, and health and performance records;~~
- ~~2. Faculty records including Arizona professional nursing license number, evidence of fulfilling the requirements in R4-19-204, and performance evaluations for faculty employed by the parent institution for 1 or more years;~~
- ~~3. Minutes of faculty and committee meetings;~~
- ~~34. Administrative records, including minutes of faculty meetings and reports from accrediting agencies; annual reports of the program, and school bulletins; and~~
- ~~45. The statement of mission and goals, current curriculum, including philosophy, objectives, and course outlines; and,~~
- ~~5. Agreements with other agencies which provide learning experiences for the students.~~

R4-19-203. Administrator; Qualifications and Duties

~~A.~~ A nursing program shall appoint an administrator who ~~shall hold a~~ holds an graduate degree with a major in nursing and shall have a current Arizona professional nursing license that is active and in good standing and:-

- ~~1. For professional nursing programs, a graduate degree with a major in nursing; or~~
- ~~2. For practical nursing programs, a baccalaureate degree with a major in nursing.~~

~~B.~~ The administrator shall have comparable status with other program administrators in the parent institution and shall report directly to an academic officer of the institution.

~~BC.~~ The administrator shall be responsible for:

- ~~1. Administer the nursing education program;~~
- ~~1. Maintaining relationships with administrative authorities and other academic and support units of the parent institution;~~
- ~~2. Providing leadership for faculty and staff;~~
- ~~32. Developing, implementing, and evaluating the program of learning; Facilitate and coordinate activities related to academic policies, personnel policies, curriculum, resources, facilities, services, and program evaluation;~~
- ~~43. Preparing Prepare and administering administer the budget;~~
- ~~54. Screening and recommending Recommend candidates for faculty appointment, retention, and promotion;~~
- ~~6. Developing and maintaining relationships with local, state, regional, and national health and professional organizations and regulatory agencies;~~
- ~~7. Ensuring that written agreements for use of clinical facilities are mutually developed by the parent institution and health care providers;~~

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5. Ensure that faculty are evaluated at least every 3 years;
 8. ~~Ensuring that written agreements with health care providers that allow faculty members the control and freedom to select learning experiences for students;~~
 9. ~~Ensuring that written agreements with health care providers contain termination clauses which provide sufficient time for enrolled students to complete the course upon termination of the agreement; and;~~
 106. ~~Ensuring~~ Maintain policies or procedures that promote safe patient safety care during student clinical experiences; and
 7. Participate in activities that contribute to the governance of the parent institution.
- ED.** ~~The administrator of the nursing program shall not teach more than three~~ 45 contact hours per week academic session.

R4-19-204. Faculty; Personnel Policies; Qualifications and Duties

- ~~A.~~ The A nursing program shall implement personnel policies for full- and part-time nursing faculty members which that shall conform with to those for other faculty members of the parent institution or provide a written explanation of any differences. Any differences in policy shall be explained in writing.
- B.** ~~The A nursing program shall have written policies concerning the teaching load for nursing faculty that consider the following factors: The number of faculty shall be determined by the following factors:~~
1. ~~The number and level of students enrolled,~~
 2. ~~The curriculum plan,~~
 3. The A activities and responsibilities required of the faculty including student contact hours, and
 4. ~~The number and geographic locations of clinical laboratory facilities.~~
- C.** The parent institution of a nursing program shall ensure that ~~The ratio of students to nursing faculty while involved in the direct care of patients shall be no more than ten to one.~~
- D.** The parent institution of a nursing program shall ensure that Each every professional nursing program faculty member has shall have: an Arizona professional nurse license that is active and in good standing and that every faculty member meets one of the following:
1. ~~A graduate degree with a major in nursing If providing didactic instruction:~~
 - a. At least 2 years of experience as a professional nurse providing direct patient care; and
 - b. A graduate degree. The majority of the faculty members of a professional nursing program shall hold a graduate degree with a major in nursing. If the graduate degree is not in nursing, the faculty member shall hold a minimum of a baccalaureate degree in nursing; or
 2. If providing clinical instruction only:
 - a. The requirements for didactic faculty, or
 - b. A baccalaureate degree with a major in nursing and at least 3 years of experience as a professional nurse providing direct patient care.
 2. ~~A Current licensure professional nurse in the state of Arizona;~~
 3. ~~At least 2 years' experience as a professional nurse providing direct patient care, and~~
 4. ~~Completion of at least two years' experience teaching courses related to nursing or nursing education.~~
- E.** The parent institution of a nursing program shall ensure that Each practical nursing program faculty member has shall have:
1. ~~A minimum of a baccalaureate degree with a major in nursing,~~
 2. Current licensure as a An Arizona professional nurse license that is active and in good standing in the state of Arizona, and
 3. ~~At least one 2 years' years of experience as a professional nurse providing direct patient care, and~~
 4. ~~Completion of at least one years' experience teaching courses related to nursing or nursing education.~~
- F.** The nursing faculty shall participate in the following:
1. ~~Developing, implementing, and evaluating the program of learning;~~
 2. ~~Developing standards for the admission, progression, and graduation of students; and~~
 3. Supervising Providing for the supervision of students in all clinical experiences; ~~and~~
 4. ~~Advising students; and~~
 5. ~~Professional scholarly activities.~~
- ~~G.~~ The program shall recruit, appoint, and promote faculty without discrimination as to age, race, sex, national origin, or marital status.

R4-19-205. Students; Policies and Admissions

- A.** A nursing program shall have written policies available to students and the public regarding admission, readmission, transfer, advanced placement, progression, graduation, withdrawal, or dismissal that consider the following:
1. Faculty-to-student ratio,
 2. Educational facilities and resources to accommodate the number of students, and
 3. Capacity of clinical agencies to provide learning experiences.

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- ~~A.~~ The nursing program shall admit students to the program based upon the number of faculty, available educational facilities and resources, and the availability of clinical learning experiences for the students.
- ~~B.~~ Students shall be admitted without discrimination as to age, race, religion, sex, national origin, or marital status.
- ~~C.~~ The program shall establish written policies for admission, readmission, transfer, advanced placement, promotion, graduation, withdrawal, or dismissal.
 - 1. The policies shall be consistent with those for students in the parent institution.
 - 2. The policies shall be provided to program applicants.
- ~~DB.~~ A nursing program shall have establish written policies available to students that address for student rights, responsibilities, grievances, health, and safety, and welfare.

R4-19-206. Curriculum

- ~~A.~~ A nursing program for preparing professional nurses shall implement a curriculum which provides student instruction in the areas set forth in the *Guidelines of NCLEX-RN Item Writers*, National Council of State Boards of Nursing, Inc., 676 North St. Clair Street, Suite 550, Chicago, Illinois 60611, 1988, and no later editions, which is incorporated by reference and on file with the Secretary of State.
- ~~B.~~ A nursing program for licensed preparing practical nurses shall implement a curriculum which provides student instruction in the areas set forth in the *Guidelines for NCLEX-PN Item Writers*, National Council of State Boards of Nursing, Inc., 676 North St. Clair Street, Suite 550, Chicago, Illinois 60611, 1990, and no later editions, which is incorporated by reference and on file with the Secretary of State.
- A. A nursing program shall implement a curriculum that:
 - 1. Reflects its mission and goals;
 - 2. Is logically consistent between and within courses; and
 - 3. Is designed so that a student who completes the program will have the knowledge and skills necessary to function in accordance with the scope of practice specified in R4-19-401 for practical nurse programs or R4-19-402 for professional nurse programs.
- B. A nursing program shall provide for progressive sequencing of classroom and clinical instruction sufficient to meet the goals of the program.
- C. A nursing program shall maintain at least a 75% NCLEX®, passing rate for graduates taking the NCLEX-PN®, or NCLEX-RN®, for the first time within 12 months of graduation. The Board shall issue a notice of deficiency to any program that has a NCLEX®, passing rate less than 75% for 2 consecutive calendar years.

R4-19-207. Application for ~~Provisional~~ Initial Approval of a Nursing Program

- ~~A.~~ Before establishing a nursing program a ~~A parent institution seeking to establish a nursing program~~ shall submit an application for proposal approval to the Board that includes the following information and documentation: ~~make application to the Board for initial approval. The initial application for approval shall include the following information:~~
 - 1. Name and address of the parent ~~applicant~~ institution;
 - 2. Statement of intent to establish a nursing Purpose and classification of nursing program, including the level of the program; and
 - 3. Evidence of compliance or plan for complying with R4-19-201 through R4-19-206;
 - 43. Proposal that includes, but is not limited to A feasibility study and results indicating the following information:
 - a. Documentation of the present and future need for the program in the state community including availability of potential students and need for entry level nurses;
 - b. Need for graduates of the proposed program
 - e. Availability of students;
 - db. Potential effect ~~Impact~~ on existing nursing programs in a 50-mile radius of the proposed program;
 - c. Organizational structure of the educational institution documenting the relationship of the nursing program within the institution;
 - d. Accreditation status of the parent institution;
 - e. Purpose, mission, and goals of the nursing program;
 - e. Potential for qualified faculty;
 - f. Availability of qualified administrator and faculty;
 - f. Financial commitment to support the initial and continuing program;
 - h. Community support of the scope and philosophy of the program, and
 - fg. Number of budgeted faculty positions;
 - gh. Source and description of clinical Adequacy of the clinical practicum and academic resources for the level of program;
 - i. Anticipated student population;
 - j. Documentation of adequate academic facilities and staff to support the nursing program;

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- k. Evidence of financial resources adequate for the planning, implementation, and continuation of the nursing program; and
- l. Tentative time schedule for planning and initiating the nursing A timetable for development of the program and the intended date for entry of the first of the first class beginning.
- 5. Listing of resources available to fund the program and a projected budget for operation;
- 6. Number and qualifications of proposed faculty and staff;
- 7. Anticipated student population;
- 8. Description of available physical facilities and description of proposed facilities with dates of availability; and
- 9. Listing of available and suitable clinical facilities within the geographic area, including facility type; size, by number of beds; and type of patients.
- B.** Upon the Board determining that The Board shall grant proposal approval to any regionally accredited parent institution that demonstrates:
 - 1. The need for a program.
 - 2. The resources to operate a program.
 - 3. The availability of students, and
 - 4. The availability and resources to secure a qualified administrator and faculty. the application is complete and the requirements of subsection (A) have been met.
- C.** A parent institution that is denied proposal approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for proposal approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6. Representatives of the parent institution shall meet with the Board for review of the application.
- ~~CD.~~** A parent institution that receives proposal an applicant for initial approval may submit an application to the Board for provisional approval that includes the following information and documentation: shall, not less than three months prior to the proposed admission of students, do the following:
 - 1. Name and address of parent institution; and
 - 2. Plan for compliance with R4-19-201 through R4-19-206, including but not limited to the following:
 - 1. a. Name and credentials of appointed an administrator;
 - 2. Appoint administrative staff;
 - 3. b. Names and qualifications of Appoint nursing faculty for the first year of operation;
 - 4. c. Submit Final program implementation plan plans, including curriculum, to the Board;
 - 5. d. Curriculum, including course outlines, program objectives, and learning outcomes;
 - 6. Submit to a survey of the educational and clinical facilities by authorized representatives of the Board to determine compliance with R4-19-201 through R4-19-206 and this subsection.
 - 7. e. Descriptions of available and proposed physical facilities with dates of availability; and
 - 8. f. List of available clinical facilities within the geographic area, including facility type, size, number of beds, and type of patients.
- ~~DE.~~** Following an onsite evaluation conducted according to A.R.S. § 41-1009, the The Board shall grant provisional initial approval to a parent institution that meets the requirements of R4-19-201 through R4-19-206 and for whom approval is in the best interest of the public. A parent institution that is denied provisional approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for provisional approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6. a nursing program upon receipt of the written survey report to the Board from its authorized representatives and a determination by the Board that the program has complied with subsections (A) through (C).
- E.** The provisional initial approval of for a nursing program shall expires 18 12 months from the date of the grant of provisional initial approval if a class of nursing students is not admitted by the nursing program within that time.
- G.** If a nursing program fails to apply for full approval within 2 years of graduating its first class of students, the Board shall rescind its provisional approval. A nursing program whose provisional approval is rescinded may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding the provisional approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.

R4-19-208. Application for Full Approval

- A.** A nursing program seeking full approval shall submit an a completed application on a form provided by the Board. The application shall that includes provide the following information and documentation:
 - 1. The Name and address of the parent applicant institution,
 - 2. The Date the nursing program graduated its first class of students, and
 - 3. 15 copies of a self-study report that contains evidence Evidence that the program is in compliance with R4-19-201 through R4-19-206, and evidence that the results received by its graduates on the NCLEX average a passing rate of 80% or better.

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- B.** ~~Upon receipt of an application for full approval, the Board or its authorized representatives shall survey the educational and clinical facilities to determine compliance with this Section. The Board shall grant full approval to a nursing program upon receipt of the written survey report to the Board from its authorized representatives and a determination by the Board that the program has complied with the requirements of this Section.~~
- B.** Following an onsite evaluation conducted according to A.R.S § 41-1009, the Board shall grant full approval to a nursing program that meets the requirements of R4-19-201 through R4-19-206 if approval is in the best interest of the public. A nursing program that is denied full approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for full approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.

R4-19-209. Nursing Program Change Curriculum Changes for Board-approved Programs

- A.** ~~An A nursing program administrator shall receive approval from~~ notify the Board prior to before implementing any of the following nursing program changes in curriculum or alterations of a current curriculum:
1. ~~A change~~ Changing the in philosophy, mission or goals, or objectives which alter present curriculum;
 2. ~~An increase~~ Increasing or decrease decreasing in the length of the program; or
 3. ~~A reorganization of the curriculum~~ Adding or deleting a geographical location of the program;
 4. Increasing the student enrollment capacity by more than 20%;
 5. Changing the level of educational preparation provided; or
 6. Transferring the nursing program from one institution to another.
- B.** The administrator shall submit the ~~The following materials shall be submitted~~ with the request for curriculum nursing program changes:
1. The rationale for proposed change and the anticipated effect on program administrator, faculty, students, resources, and facilities;
 2. A ~~presentation~~ summary of the differences between the current practice and proposed curriculum change and the proposed curriculum change;
 3. A timetable for implementation of the change; and
 4. The methods of evaluation ~~which shall to~~ be used to determine the effect of the change.
- C.** The Board shall approve a request for program change if the program demonstrates that it has the resources to implement the change and the change is consistent with R4-19-201-206. A nursing program that is denied approval of program changes may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for full approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.

R4-19-210. Renewal of Approval of Board-approved Nursing Programs; Continuing Approval

- A.** ~~A An approved nursing program which is approved by the Board but which that is not accredited by an approved national nursing accrediting agency shall annually submit to the Board the following reports and records~~ submit an application packet to the Board at least 4 months before the expiration of the current approval that includes the following:
1. Name and address of the parent institution.
 2. Current regional accreditation status.
 3. Copy of the current catalog of the parent institution.
 4. Copy of current nursing program policies, and
 5. Fifteen copies of a self-study report that contain evidence of compliance with R4-19-201 through R4-19-206.
 1. ~~A copy of the current college catalog and a report completed by October 31 which shall contain the following information:~~
 - a. ~~Changes in mission and philosophy, goals, and objectives since the last annual report;~~
 - b. ~~Faculty complement and qualifications of new faculty;~~
 - c. ~~Changes in curriculum since the last annual report;~~
 - d. ~~Student enrollment, anticipated number of graduates for the academic year; and,~~
 - e. ~~Changes in resources and clinical facilities being used since the last annual report.~~
 2. ~~A list of students who have completed all the requirements for graduation, except the successful completion of courses in which they are currently enrolled. The list shall be submitted to the Board not less than three months prior to graduation.~~
- B.** ~~The nursing program shall submit to a visit and evaluation every four years by the Board or designated Board representatives to determine whether the program continues to be in compliance with the requirements of this Article. The administrator shall submit, not less than 30 days before the visit, the following:~~
1. ~~One copy the self-study report, one copy of the college catalog to each of the site visitors, and~~
 2. ~~Nine copies of the self-study report to the Board.~~

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- B.** Following an onsite evaluation conducted according to A.R.S. § 41-1009, the Board shall renew program approval for a maximum of 5 years if the nursing program meets the criteria in R4-19-201 through R4-19-206 and if renewal is in the best interest of the public.
- C.** If the Board denies renewal of approval, the nursing program may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for renewal of approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6 and 4 A.A.C. 19, Article 6.
- C.** ~~Between survey visits, if the Board has reasonable cause to believe that a nursing program is not in compliance with this Article, the Board may require a nursing program to submit a summary report addressing the areas of Board concern or submit to a visit by Board representatives to determine continuing compliance with the requirements of this Article.~~
- D.** ~~The administrator shall report in writing to the Board, within 30 days, when a nursing program is transferred from one institution to another. The report submitted to the Board shall contain the following information:~~
- ~~1. Feasibility study substantiating need for change;~~
 - ~~2. Administration and organizational plans;~~
 - ~~3. Anticipated effect on students, faculty, and resources; and~~
 - ~~4. Plans for filing of an application for initial approval by the Board of the nursing program by the institution to which the program was transferred.~~

R4-19-211. Rescission of Approval of a Nursing Program or a Refresher Program

- A.** The Board shall ~~immediately~~, upon determining that a nursing program or a refresher program is not in compliance with R4-19-201 through ~~R4-19-214 R4-19-206, R4-19-209, or R4-19-210~~, provide to the administrator a written notice of deficiencies ~~which that also~~ establishes a reasonable time, based upon the number and severity of deficiencies, to correct the deficiencies. ~~No period~~ The time for correction ~~shall may not~~ exceed 18 months.
- ~~1. The administrator shall, within 10 30 days from the date of receipt service of the notice of deficiencies, file a plan of correction with the Board to correct each of the identified deficiencies after consultation with the Board or designated Board representative.~~
 - ~~2. The administrator may, within 30 40 days from date of receipt service of the notice of deficiencies, submit a written request for a hearing before the Board to appeal the Board's determination of deficiencies. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.~~
 - ~~3. If the Board's determination is not appealed or is upheld upon appeal, the program Board shall be subject to conduct periodic evaluations by of the program Board during the period time of correction to determine if whether the deficiencies have been are corrected.~~
- B.** The Board shall, following a Board-conducted survey and report, rescind the approval of a nursing program or refresher program if the ~~nursing~~ program fails to comply with R4-19-201 through ~~R4-19-214 R4-19-206, R4-19-209, or R4-19-210~~, within the time ~~period~~ set by the Board in the notice of deficiencies served upon the program.
- ~~1. The Board shall serve the administrator with a written notice of proposed rescission of approval which that shall states the grounds detail the reasons for the rescission. The administrator shall have 30 40 days to submit a written request for a hearing before the Board to show cause why approval should not be rescinded. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.~~
 - ~~2. If, following hearing, the Board determines that approval shall be rescinded, Upon the effective date of a decision to rescind program approval, the nursing program shall immediately cease operation and be removed from the official approved-status listing. A nursing program which that has been ordered to cease operations shall assist currently enrolled students in to transferring to another an approved nursing program.~~
- C.** In addition to the cause ~~set forth~~ in subsection (A), if the Board determines that the effectiveness of instruction to students is impaired, the Board may rescind approval of a nursing program for any of the following causes:
- ~~1. For a program which that has been was served with a notice of deficiencies within the preceding 3 three years which were thereafter and timely corrected the noticed deficiencies, subsequent noncompliance with the minimum standards in R4-19-201 through R4-19-2089, or failure to comply with R4-19-209, or R4-19-210, or R4-19-211, R4-19-212; or~~
 - ~~2. Willful failure to comply with R4-19-209 or R4-19-210; or~~
 - ~~3. Failure to comply with orders of or stipulations with the Board within the time period determined by the Board.~~

R4-19-212. Nationally Accredited Nursing Programs; Continuing Approval

- A.** ~~A~~ An approved nursing program ~~which is approved by the Board and which that~~ is accredited by an approved national nursing accrediting agency shall submit to the Board evidence of initial accreditation and ~~thereafter~~ shall submit evidence of continuing accreditation ~~status~~ after each ~~successive~~ reaccreditation review.
- ~~1. A reaccreditation review shall require a joint visit by a representative of the Board with the national accrediting team. The nursing program administrator shall notify the Board of the scheduled review at least 90 days before the review to allow the Board representative time to schedule the visit.~~

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2. ~~The administrator shall submit to the Board ten copies of the self-study which was prepared for the reaccreditation review and provided to the approved national nursing accrediting agency.~~
3. ~~A report by the Board representative shall be submitted to the Board for review.~~
- B. ~~In addition to the information required in subsection (A), the~~ The administrator shall submit the following to the Board
~~Any any report from the a national accrediting agency citing deficiencies or recommendations shall be submitted to the Board at the time such the report is received by the nursing program.:~~
 1. ~~A copy of all reports supplied to the national accrediting agency at the time of filing with such agency;~~
 2. ~~A copy of the current school catalog;~~
 3. ~~Any report from the national accrediting agency citing deficiencies or recommendations shall be submitted to the Board at the time such report is received by the nursing program.~~
 4. ~~A list of the students who have completed all the requirements for graduation except the successful completion of the courses in which they are currently enrolled. The list shall be submitted to the Board not less than three months prior to graduation.~~
- ~~B.~~ The administrator shall submit an annual report which shall contain student and graduate enrollments for the year. The report shall be submitted by October 31 of each calendar year.
- C. The administrator of a nursing program shall notify the Board within 10 days of any change in accreditation status.
- D. The administrator of a nursing program that loses its accreditation status or allows its accreditation status to lapse shall file an application for renewal of approval under to R4-19-210 within 30 days of loss of or lapse in accreditation status.
- ~~CE.~~ Unless otherwise notified by the Board following receipt and review of the documents required by subsections (A) and (B) through (C), a nursing program shall have continuing continues to have full-approval status. The administrator of a nursing program that has its continuing approval-status rescinded by the Board may request a hearing by filing a written request with the Board within 30 days of service of the Board's order rescinding continuing full-approval status. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, and 4 A.A.C. 19, Article 6.

R4-19-213. Voluntary Termination of a Nursing Program or a Refresher Program

- A. ~~The administrator of a nursing program or a refresher program shall submit written notification to notify the Board within 15 days of when a decision has been made to voluntarily terminate a the nursing program. The administrator shall, at the same time, submit a written plan for terminating the nursing program or refresher program.~~
- B. ~~The administrator shall assure ensure that the nursing program or refresher program is maintained, including the nursing faculty, until the last student is transferred or has completed completes the nursing program.~~
- C. ~~Within 15 days After the termination of a nursing program or refresher program, the administrator shall provide to the Board a written notification notify the Board of the permanent location and availability of all program records.~~

R4-19-214. Approval of Reentry/Refresher Update Programs

- A. ~~An applicant for A person who desires Board approval of a reentry/refresher update program for nurses whose licenses have been inactive or expired for five 5 or more years or nurses under Board order to enroll in a refresher program shall submit a completed application apply to the Board on a form furnished by the Board which that provides the following information and documentation:~~
 1. ~~The Applicant's name, address, and telephone number of the applicant;~~
 2. ~~The Proposed starting date for the program;~~
 3. ~~The Name and curriculum vitae of all instructors;~~
 4. ~~A Complete course program outline;~~
 5. ~~A statement Statement describing detailing the facilities, staff, and resources that the applicant shall will use utilize to conduct the reentry/refresher update program; and~~
 6. ~~Evidence of compliance with the requirements of subsection (B).~~
 6. Program curriculum that consists of a minimum of 40 hours of theory and 112 hours of supervised clinical practice for a licensed practical nurse or a minimum of 60 hours of theory and 160 hours of supervised clinical practice for a professional nurse, including:
 - a. A comprehensive review of basic nursing care concepts and skills to include nursing process and theory, medication calculation and administration, and communication;
 - b. Medical and surgical nursing;
 - c. Update of new nursing care concepts and skills;
 - d. Planned and supervised clinical practice experience consistent with course theory and course objectives; and
 - e. Program and participant evaluation.
- B. ~~A reentry update program shall provide the following:~~
 1. ~~A program curriculum which consists of a minimum of 40 hours of theory and 112 hours of supervised clinical practice for a licensed practical nurse, and a minimum of 60 hours of theory and 160 hours of supervised clinical practice for a professional nurse, including:~~
 - a. ~~A comprehensive review of basic nursing care concepts, nursing process, principles, and skills;~~

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- b. Medical and surgical nursing;
 - e. Update of new nursing care concepts and skills;
 - d. Planned and supervised clinical practice experience consistent with course theory and course objectives; and
 - e. Program and participant evaluation.
2. Written notification to the Board, within five days of completion of the program by a participant, of the following:
- a. Name of the participant and whether the participant has successfully completed or failed the program;
 - b. The license or permit number for the participant; and
 - e. Date of completion for the participant.
- EB.** The Board shall approve a ~~reentry/refreshers~~ update program that meets the requirements of R4-19-214 (A) and for which approval is in the best interest of the public ~~which meets the requirements of this Section~~ for a term of 4 ~~two~~ years. An applicant who is denied refresher program approval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for approval. Hearings shall be conducted in accordance with A.R.S. Title 31, Chapter 6, and A.A.C. 10, Article 6.
- DC.** The refresher program sponsor shall apply for reapproval in accordance with subsection (A) not later than 90 days ~~prior to before~~ the expiration of the current approval. The sponsor of a refresher ~~A~~ program that is denied reapproval may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for reapproval. Hearings shall be conducted in accordance with A.R.S. Title 31, Chapter 6, and A.A.C. 10, Article 6.
- D.** The sponsor of an approved refresher program shall provide written notification to the Board within 5 days of a participant's completion of the program of the following:
- 1. Name of the participant and whether the participant successfully completed or failed the program;
 - 2. Participant's license or permit number; and
 - 3. Date of participant's completion of the program.
- E.** ~~A program which is denied approval or reapproval may file a written request for hearing with the Board not later than 10 days following receipt of the notice denying approval. Hearings shall be conducted in accordance with A.R.S. Title 41, Chapter 6, Article 6.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 39. BOARD FOR PRIVATE POSTSECONDARY EDUCATION

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-39-501 | Amend |
| R4-39-502 | Amend |
| R4-39-503 | New Section |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. § 32-3003(A)(3)
- Implementing statutes: A.R.S. §§ 32-3051, 32-3052, 32-3053, 32-3054, 32-3055, 32-3056, and 32-3057
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
- None
- 4. The name and address of agency personnel with whom person may communicate regarding the rulemaking:**
- | | |
|------------|---|
| Name: | Teri Candelaria Executive Director |
| Address: | Board for Private Postsecondary Education 1400 West Washington, Room 260 Phoenix, Arizona 85007 |
| Telephone: | (602) 542-5709 |
| Fax: | (602) 542-1253 |

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5. An explanation of the rule, including the agency's reasons for initiating the rule:

The proposed rulemaking is to make the rules more clear and concise, and to be consistent with required rulemaking language and style.

The proposed rulemaking is to ensure consistency with A.R.S. Title 41, Chapter 6, Article 10 and to conform with current Board policy and procedures.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact statement:

The proposed rulemaking is primarily technical and administrative in nature. The purpose of the proposed rulemaking is to ensure consistency with A.R.S. Title 41, Chapter 6, Article 10, to conform to current Board policies and procedures and to be consistent with required rulemaking language and style. The proposed rulemaking will make the rules more clear and concise. The Board and the institutions subject to licensure by the Board will benefit from this change.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business and consumer impact statement:

Name: Teri Candelaria
Executive Director

Address: Board for Private Postsecondary Education
1400 West Washington Street, Room 260
Phoenix, Arizona 85007

Telephone: (602) 542-5709

Fax: (602) 542-1253

10. The time, place and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments on the proposed rulemaking or the preliminary economic, small business, and consumer impact statement may be submitted no later than 5:00 p.m. June 1, 2001.

No oral proceedings are scheduled. The Board will schedule an oral proceeding on the proposed rulemaking if a written request for the oral proceeding is submitted to the Board by at least 5 persons.

11. Any other matter prescribed by statute that are applicable to the specific agency or to any specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

Not applicable

13. The text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 39. STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION

ARTICLE 5. ~~HEARINGS AND INVESTIGATIONS~~

INVESTIGATIONS AND HEARING PROCEDURES

Section

R4-39-501. ~~Hearing Procedures~~ Investigations

R4-39-502. ~~Investigations~~ Hearings

R4-39-503. Rehearing, Review of Board's Decision

ARTICLE 5. HEARINGS AND INVESTIGATIONS
INVESTIGATIONS AND HEARING PROCEDURES

R4-39-501. Hearing Procedures Investigations

- A.** In any hearing, the parties include all persons named in the Notice of Hearing and all persons properly admitted as interveners.
- B.** The Board may appoint a hearing officer to hear the matter, make findings of fact and conclusions of law and recommend action to the Board. In addition, the hearing officer may make all determinations on procedural matters in the hearing or of a rehearing.
- C.** Notice of Hearing:
1. All parties of record shall be given written notification at least twenty (20) days prior to the hearing, of the date, time and place set for the hearing, together with a brief statement of the matters to be considered at the hearing.
 2. Postponements shall be discretionary with the Board or its hearing officer.
 3. Response to Notice of Hearing:
 - a. A response to a Notice of Hearing must be filed with the Board within twenty (20) days of receipt by respondent. If the Notice of Hearing is amended at any time subsequent to service of the notice, respondent may be required to answer the amended assertions within a reasonable time.
 - b. A response filed under this rule shall briefly state respondent's position or defenses to the proceeding and shall specifically admit or deny each of the assertions contained in the notice. If the respondent is without or is unable to reasonably obtain knowledge or information sufficient to form a belief as to the truth of an assertion, he shall so state, which shall have the effect of a denial. Any assertion not denied shall be deemed to be admitted. When a responding party intends in good faith to deny only a part of a qualification of an assertion, he shall specify so much of it as is true and shall deny only the remainder.
 - c. If the respondent fails to file a response within the time provided, the assertions contained in the Notice of Hearing shall be deemed to be admitted.
 4. Service:
 - a. The Notice of Hearing shall be served personally or by certified mail, return receipt requested, upon the respondent. All subsequent notices and documents required to be served by mail or by delivery in person. Service of any document shall be deemed complete when a true copy is deposited in the United States mail with first class postage prepaid, addressed to the address of record, or upon personal delivery. All motions and other papers required to be served upon any other party to a hearing shall be made by delivery in person or by first class mail, postage prepaid. Service upon an attorney or agent who has appeared on behalf of the party shall constitute service upon such party.
 - b. Copies of all papers or documents filed shall, at the time of filing, be served on the hearing officer, if any, upon the Board and upon all parties to the hearing. The Board or hearing officer may require a copy of any document to be served upon any other person as may be designated by them. Proof of service may be made by affidavit of the person making service or by written acceptance of the service by the person upon whom the document is served. An original of all documents shall be filed with the Board.
- D.** Motions:
1. All motions filed with the Board or hearing officer shall be typewritten or legibly written on paper no larger than 8-1/2" x 11", shall contain the name and address of the party or other correspondent, shall designate the title and docket number, if any, shall state the name and address of each party served with a copy, shall be properly captioned and shall be signed by the party filing it or by at least one attorney, in his or her individual name, who represents the party. The signature certifies that the signer has read the paper, that to the best of his knowledge, information and belief there is good ground to support its contents and that it is not interposed for delay.
 2. A motion for procedural order, unless made orally during a hearing, shall be made in writing stating the grounds with particularity and setting forth the relief sought. All motions shall be served upon all of the parties who shall then have ten (10) days after service of the motion to respond. If any party fails to timely respond or any party fails to appear at oral argument on the motion, if any, the Board or hearing officer may dispose of the motion summarily. Any party may request oral argument on any motion summarily. Any party may request oral argument on any motion, or the Board or hearing officer may on their own initiative require oral argument.
- E.** Stipulations:
Parties to any proceeding may by stipulation in writing agree upon any matter involved in the proceeding. If approved by the Board or hearing officer the stipulation shall be binding upon all parties to the proceeding or as between those parties stipulating. Notwithstanding the foregoing, the hearing officer or Board may require presentation of evidence or proof of stipulated facts for their consideration.
- F.** Prehearing Statements:

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Not less than five (5) days before hearing, each party shall insure that the Board or hearing officer has received a prehearing statement which shall be so designated and which shall set forth with specificity the following:

1. A list of all exhibits and witnesses to be used at the hearing except those to be used for impeachment;
2. A list of the issues of law and fact which the party submitting the prehearing statement believes to be material;
3. That all lists have been exchanged with the other parties to the proceeding; and
4. No other exhibits or witnesses shall be used during the hearing other than those listed and exchanged, except for good cause shown.

G. Prehearing Conferences;

The Board or hearing officer, upon application of a party, or upon their own motion, may call a conference with all parties at any time for the purpose of clarifying the procedural steps to be followed in a hearing, or clarifying or limiting the legal or factual issues involved in a proceeding.

H. In addition to the oral arguments and evidence presented at the hearing, the Board or hearing officer may consider written statements or memoranda presented by any party prior to or at the hearing. The Board or hearing officer may also allow for a period of time not to exceed a total of sixty (60) days after the hearing for the parties to submit post-hearing memoranda or proposed findings of fact and conclusions of law.

I. The recommendation of the hearing officer shall be submitted to the Board within twenty (20) days of the completion of the hearing. The Board shall review the recommendation and may affirm, modify, reject, in whole or in part, the recommendation and may also remand it for further hearing or take evidence itself.

J. The final decision of the Board must be made within ten (10) days of receipt of the recommendation of the hearing officer or within (20) days of the completion of the hearing if held before the Board. The final decision of the Board shall be in writing, signed by the chairman or his designee, and shall state the action taken and the basis for such action. The final decision shall state separately the findings of fact and conclusions of law and the order of the Board. It shall be filed as a record of the Board and maintained in the file relating to the applicant or licensed institution. A copy of the final decision of the Board shall be served on each party.

K. A motion for rehearing may be filed by any party in accordance with A.R.S. § 32-3054.A.

L. A rehearing of the Board's decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the proceedings or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Board, its employees or hearing officer or the prevailing party;
3. Accident or surprise which would not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; and
7. That the decision is not justified by the evidence or is contrary to law.

M. An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

A. The Board may cause to be investigated any complaint alleging violation of A.R.S. § 32-3001, et seq. or these rules by any applicant, program or institution.

B. The Board may review the records of any institution under investigation and may request information from persons having specific information pertaining to the investigation. The Board may request the reproduction of documents and witnesses during the investigation. The institution may file written objections to the request within 15 days of receipt. The Board shall attempt to resolve disputes as to production of documents and persons. If no resolution is reached, the matter shall be heard and decided by the Board.

C. Failure to produce documents or information, or failure to attempt to produce a witness, as requested by the staff or designees of the Board, and not objected to in writing, shall, absent good cause, constitute a violation of these rules.

D. All documents and materials relating to an investigation shall remain confidential until the matter is closed, settled by stipulation, or until the matter is set for hearing under A.R.S. § 41-1092 et. seq.

E. Upon completion of the investigation, the matter shall be referred to the Board's Complaint Committee for consideration.

F. After consideration of the investigation, the Complaint Committee may take the following action:

1. Determine that further investigation is required. After further investigation, the matter may be re-heard by the Complaint Committee or referred to the Board;
2. Determine that the investigation does not demonstrate a violation of statute or rule and recommend to the Board that the investigation be closed; or
3. Determine that the investigation demonstrates a violation of statute or rule and send a report of its findings and recommendation to the Board.

G. If the Board determines that the investigation demonstrates that there are reasonable grounds to indicate a violation of Board statute or rule, the Board shall set the matter for hearing.

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R4-39-502. Investigations Hearings

- ~~A.~~ Board staff and designees of the Board shall investigate alleged violations of A.R.S. § 32-3001, et. seq. or these rules by any applicant, program or institution covered by A.R.S. § 32-3001, et seq. upon request of the Board or upon receipt of a verified, written complaint.
- ~~B.~~ Following an investigation, staff or the Board's designee shall report its findings and recommendation to the Board, in writing.
- ~~C.~~ Board members, staff and designees of the Board may review the records of any institution being investigated and may request information from persons having specific information pertaining to the investigation. Staff and designees of the Board may request the production of documents and witnesses during the investigation. The institution may file written objections to the request within 15 days of receipt. Staff and designees of the Board shall attempt to resolve disputes as to production of documents and persons. If no resolution is reached, the matter shall be heard and decided by the Board.
- ~~D.~~ Failure to produce documents or information, or failure to attempt to produce a witness, as requested by the staff and designees of the Board, and not objected to, in writing, shall, absent good cause, constitute a violation of these rules.
- A. All hearings shall be conducted before the Board or its hearing officer under A.R.S. Title 41, Chapter 6, Article 10.
 - 1. Parties may stipulate to any facts that are not in dispute. Stipulations may be made in writing or orally by reading the stipulations into the record of the hearing and will be binding upon the parties unless the Board grants permission to withdraw from them. The Board may set aside any stipulation and proceed to ascertain the facts.
 - 2. The Board may, on its own motion or at request of any party, call a conference of the parties at the opening of any hearing or at any subsequent time, for the purpose of clarifying the procedural steps to be followed in the proceeding, or the legal or factual issues involved.
 - 3. By the order of the Board, proceedings involving a common question of law or fact may be consolidated for hearing of any or all the matters of issue.
- B. The failure of any licensee to appear when noticed at any proceeding before the Board shall leave the Board free to act upon the evidence and information at hand without further notice to the licensee.

R4-39-503. Rehearing, Review of Board's Decision

- A. Any party aggrieved by the decision of the Board in an appealable agency action or contested case may file with Board no later than 30 days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds as provided in subsection (C). A rehearing shall be conducted before the Board or its hearing officer under A.R.S. § 41-1092.09.
- B. A motion for rehearing or review may be amended at any time before it is ruled upon by the Board. A response may be filed by any other party within 15 days after a motion or amended motion. The Board may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C. The Board shall grant a rehearing or review of a decision for any of the following causes materially affecting the moving party rights:
 - 1. Irregularity in the administrative proceedings of the Board or the Administrative Law Judge or the prevailing party or any order or abuse of discretion that deprives the moving party of a fair hearing;
 - 2. Misconduct of the Board or the Administrative Law Judge or the prevailing party;
 - 3. Accident or surprise which could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 - 5. Excessive or insufficient penalties;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
 - 7. That the decision is not justified by the evidence or is contrary to law.
- D. The Board may affirm or modify the decision or grant a rehearing or review to all or any of the parties and on all or part of an issue for any of the reasons in subsection (C). An order granting a rehearing or review shall cover only those matters specified.
- E. No later than 10 days after a decision is rendered, the Board may on its own initiative order a rehearing or review of its decision for any reason for which it may have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing or review shall specify the grounds on which it is granted.
- F. When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may, within 10 days after service, serve opposing affidavits. The Board may extend the period for serving opposing affidavits for not more than 20 days for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.

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- G.** If the Board determines that the immediate effectiveness of a decision is necessary for the preservation of the public health, safety and welfare and that a rehearing or review of the decision is impractical, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision shall be made within the time limits permitted for application for judicial review of the Board's final decision.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

PREAMBLE

1. Sections Affected

Rulemaking Action

| | |
|-----------|-------------|
| R20-5-629 | New Section |
| R20-5-630 | Repeal |
| R20-5-631 | Repeal |
| R20-5-632 | Repeal |
| R20-5-633 | Repeal |
| R20-5-634 | Repeal |
| R20-5-635 | Repeal |
| R20-5-636 | Repeal |
| R20-5-637 | Repeal |
| R20-5-638 | Repeal |
| R20-5-639 | Repeal |
| R20-5-640 | Repeal |
| R20-5-641 | Repeal |
| R20-5-642 | Repeal |
| R20-5-643 | Repeal |
| R20-5-644 | Repeal |
| R20-5-645 | Repeal |

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 23-405(4)

Implementing statute: A.R.S. § 23-410

3. A list of all previous notices appearing in the register addressing the rule:

Notice of Rulemaking Docket Opening: 7 A.A.R. 1564, April 13, 2001

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Patrick Ryan

Address: Division of Occupational Safety and Health
Industrial Commission of Arizona
800 West Washington Street, Suite 203
Phoenix, Arizona 85007

Telephone: (602) 542-1695

Fax: (602) 542-1614

E-mail: pat.ryan@osha.gov

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5. An explanation of the rule, including the agency's reasons for initiating the rule:

On January 19, 2001, the Department of Labor and the Occupational Safety and Health Administration (OSHA) revised its rules for the recording and reporting of occupational injury and illnesses. The Arizona Division of Occupational Safety and Health (ADOSH) must promulgate recording and reporting requirements that are substantially the same as those in 29 CFR 1904. Therefore, the Division of Occupational Safety and Health intends to incorporate by reference the 29 CFR part 1904, occupational injury and illness recording and reporting requirements final rule. This incorporation by reference would also eliminate all of the current requirements for recording and reporting occupational injuries and illnesses now listed in rules R20-5-630 through R20-5-646.

The goal for revising the occupational injury and illness recording and reporting requirements was to improve the quality of workplace injury and illness records. The records have several important purposes, and higher quality records will better serve those purposes. The Division of Occupational Safety and Health also believes that an improved recordkeeping system will raise employer awareness of workplace hazards and help employers and employees use and analyze these records more effectively. In revising its recordkeeping rule, the Division also hopes to reduce under-reporting and to remove obstacles to complete and accurate reporting by employers and employees.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Federal Occupational Safety and Health Administration has determined that these revisions to the occupational injury and illness recording and reporting requirements will have minimal to modest impact for most affected industry groups and has determined the revisions to be economically feasible for all industries including small business. Cost and benefit analysis of these amendments is available for inspection, review, and copying at the Industrial Commission of Arizona, Division of Occupational Safety and Health, 800 West Washington Street, Phoenix, Arizona 85007.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

| | |
|------------|---|
| Name: | Patrick Ryan |
| Address: | Division of Occupational Safety and Health Industrial Commission of Arizona 800 West Washington Street, Suite 203 Phoenix, Arizona 85007 |
| Telephone: | (602) 542-1695 |
| Fax: | (602) 542-1614 |
| E-mail: | pat.ryan@osha.gov |

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:

An oral proceeding has been scheduled as follows:

| | |
|-----------|---|
| Date: | May 30, 2001 |
| Time: | 10:00 a.m. |
| Location: | Third Floor Conference Room Industrial Commission of Arizona 800 West Washington Street Phoenix, Arizona 85007 |

Written comments may be submitted on or before 10:00 a.m., May 30, 2001.

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11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporation by reference and their location in the rules:

29 CFR 1904, *Federal Occupational Injury and Illness Recording and Reporting Requirements*. This incorporation by reference will appear in A.A.C. R20-5-629.

13. The full text of the rule follows:

TITLE 20. COMMERCE, BANKING AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH CONSTRUCTION STANDARDS

Section

| | |
|------------|--|
| R20-5-629. | <u>The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904</u> |
| R20-5-630. | <u>Definitions Repealed</u> |
| R20-5-631. | <u>Log of Occupational Injuries and Illnesses Repealed</u> |
| R20-5-632. | <u>Period Covered Repealed</u> |
| R20-5-633. | <u>Supplementary Record Repealed</u> |
| R20-5-634. | <u>Annual Summary Repealed</u> |
| R20-5-635. | <u>Retention of Records Repealed</u> |
| R20-5-636. | <u>Access to Records Repealed</u> |
| R20-5-637. | <u>Reporting of Fatality or Multiple Hospitalization Accidents Repealed</u> |
| R20-5-638. | <u>Failure to Keep Records or Reports Repealed</u> |
| R20-5-639. | <u>Change of Ownership Repealed</u> |
| R20-5-640. | <u>Petitions for Recordkeeping Exceptions Repealed</u> |
| R20-5-641. | <u>Employees not in Fixed Establishments Repealed</u> |
| R20-5-642. | <u>Small Employers Repealed</u> |
| R20-5-643. | <u>Description of Statistical Program Repealed</u> |
| R20-5-644. | <u>Duties of Employers Repealed</u> |
| R20-5-645. | <u>Effects of State Plans Repealed</u> |

ARTICLE 6. OCCUPATIONAL SAFETY AND HEALTH CONSTRUCTION STANDARDS

R20-5-629. The Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR 1904

Each employer shall comply with the *Occupational Injury and Illness Recording and Reporting Requirements*, as published in 29 CFR 1904, with amendments as of January 19, 2001, incorporated by reference and on file with the Office of the Secretary of State. Copies of these referenced materials are available for review at the Industrial Commission of Arizona and may be obtained from the United States Government Printing Office, Superintendent of Documents, Washington, D.C. 20402. These requirements shall apply to all employers, both public and private, in the state of Arizona.

R20-5-630. Definitions Repealed

- ~~A. "Act" means the Arizona Occupational Safety and Health Act of 1972, Arizona Revised Statutes, Title 23, Chapter 2, Article 10.~~
- ~~B. The definitions and interpretations contained in A.R.S. § 23-401 of the Act shall be applicable to such terms when used in rules R20-5-630 through R20-5-646.~~
- ~~C. "Recordable occupational injuries" are any occupational injuries or illnesses which result in:~~
- ~~1. Fatalities, regardless of the time between the injury and death, or the length of the illness; or~~
 - ~~2. Lost workday cases, other than fatalities, that result in lost workdays; or~~
 - ~~3. Nonfatal cases without lost workdays which result in transfer to another job or termination of employment or require medical treatment (other than first aid) or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.~~
- ~~D. "Medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel.~~

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- E.** ~~“First aid” is any one-time treatment, and any follow-up visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and follow-up visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel.~~
- F.** ~~“Lost workdays” means the number of days (consecutive or not) after, but not including, the day of injury or illness during which the employee would have worked but could not do so; that is, could not perform all or any part of his normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.~~
- G.** ~~“Establishment” means a single physical location where business is conducted or where services or industrial operations are performed (for example: a factory, mill, store, hotel, sales office, restaurant, movie theatre, farm, ranch, bank, warehouse, or central administrative office). Where distinctly separate activities are performed at a single physical location (such as contract, construction activities operated from the same physical location as a lumber yard), each activity shall be treated as a separate establishment.~~
- ~~1. For firms engaged in activities such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, which may be physically dispersed, records may be maintained at a place to which employees report each day.~~
 - ~~2. Records for personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling salesmen, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.~~
 - ~~3. For public agencies an “establishment” is defined as either:~~
 - ~~a. Single physical location where a specific governmental function is performed; or~~
 - ~~b. That location which is the lowest level where attendance or payroll records are kept for a group of employees who perform the same governmental functions, or who are in the same specific organizational unit, even though the activities are carried on at more than a single physical location.~~

R20-5-631. Log of Occupational Injuries and Illnesses Repealed

- A.** ~~Each employer shall maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment, except that under the circumstances described in subsection (B) of this Section an employer may maintain the Log of Occupational Injuries and Illnesses at a place other than the establishment. Each employer shall enter each recordable occupational injury and illness on the Log and summary as early as practicable but no later than 6 working days after receiving information that a recordable case has occurred. For this purpose, Occupational Safety and Health Administration OSHA Form No. 200 or any private equivalent may be used. OSHA Form No. 200 or its equivalent shall be completed in the detail provided in the form and the instruction contained in OSHA Form No. 200. If an equivalent OSHA Form No. 200 is used, such as a printout from data-processing equipment, the information shall be as readable and comprehensible to a person not familiar with the data-processing equipment as the OSHA Form No. 200 itself.~~
- B.** ~~Any employer may maintain the Log of Occupational Injuries and Illnesses at a place other than the establishment or by means of data-processing equipment, or both, under the following circumstances:~~
- ~~1. There is available at the place where the Log is maintained sufficient information to complete the Log to a date within 6 working days after receiving information that a recordable case has occurred, as required by subsection (A) of this Section.~~
 - ~~2. At each of the employer’s establishments, there is available a copy of the Log which reflects separately the injury and illness experience of that establishment complete and current to a date within 45 calendar days.~~

R20-5-632. Period Covered Repealed

~~Records shall be established on a calendar year basis.~~

R20-5-633. Supplementary Record Repealed

~~In addition to the Log and Summary of Occupational Injuries and Illnesses provided under rule R20-5-631, each employer shall have available for inspection at each establishment within 6 working days after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration OSHA Form No. 101. Workmen’s compensation, insurance, or other reports are acceptable alternative records if they contain the information required by OSHA Form No. 101.~~

R20-5-634. Annual Summary Repealed

- A.** ~~Each employer shall compile an annual summary of occupational injuries and illnesses for each establishment. This summary shall consist of a copy of the year’s totals from the form OSHA No. 200 and the following information from that form: calendar year covered, company name, establishment name, establishment address, certification signature, title, and date. A form OSHA No. 200 shall be used in presenting the summary. If no injuries or illnesses occurred in the year, zeros must be entered on the totals line, and the form must be posted.~~

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- B.** ~~The summary shall be completed no later than February 1 beginning with calendar year 1979. The summary of previous years' occupational injuries and illnesses shall be posted on form OSHA No. 102.~~
- C.** ~~Each employer, or the officer or employee of the employer who supervises the preparation of the log and summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the employer, or the officer or employee of the employer who supervises the preparation of the annual summary of occupational injuries and illnesses, at the bottom of the last page of the log and summary or by appending a separate statement to the annual summary certifying that the annual summary is true and complete.~~
- D.** ~~Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted under rule R20-5-609(A). The summary covering the previous calendar year shall be posted no later than February 1 and shall remain in place until March 1. For employees who do not primarily report or work at a single establishment, or who do not report to any fixed establishment on a regular basis, employers shall satisfy this posting requirement by presenting or mailing a copy of the summary during the month of February of the following year to each such employee who receives pay during that month. For multi-establishment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments.~~

R20-5-635. Retention of Records Repealed

Records provided for in rules R20-5-631, R20-5-633 and R20-5-634 (including OSHA Form No. 200 and its predecessor forms OSHA No. 100 and OSHA No. 102) shall be retained in each establishment for 5 years following the end of the year to which they relate.

R20-5-636. Access to Records Repealed

- A.** ~~Records provided for in rules R20-5-631, R20-5-633 and R20-5-634 shall be available for inspection and copying by Compliance Safety and Health Officers of the Occupational Safety and Health Division, Industrial Commission of Arizona, during any occupational safety and health inspection provided for under rules R20-5-607 through R20-5-626 and A.R.S. § 23-427 of the Act, by any representative of the Bureau of Labor Statistics, U.S. Department of Labor, or by a representative of the Secretary of Health, Education, and Welfare during any investigation under Section 20(b) of the Williams-Steiger Occupational Safety and Health Act of 1970.~~
- B.** ~~The log and summary of all recordable occupational injuries and illnesses (OSHA Form No. 200) provided for in rule R20-5-631 shall, upon request, be made available by the employer to any employee, former employee, and to their representatives for examination and copying in a reasonable manner and at reasonable times. The employee, former employee and representatives shall have access to the log for any establishment in which the employee is or has been employed.~~
 - ~~1. Nothing in this Section shall be deemed to preclude employees and employee representatives from collective bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this Section.~~
 - ~~2. Access to the log provided under this Section shall pertain to all logs retained under the requirements of rule R20-5-635.~~

R20-5-637. Reporting of Fatality or Multiple Hospitalization Accidents Repealed

- A.** ~~A work-related death must be reported to the Industrial Commission immediately, followed by a telegram or written notice within 8 hours. Within 8 hours of the inpatient hospitalization of 3 or more employees as a result of a work-related accident, the employer of any employees so affected shall report the accident either orally or in writing to the nearest office of the Occupational Safety and Health Division, Industrial Commission of Arizona.~~
- B.** ~~This requirement applies to each such fatality or hospitalization of 3 or more employees which occurs within 30 days of an incident.~~
- C.** ~~Exception: If the employer does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under subsections (A) and (B) of this Section, the employer shall make the report within 8 hours of the time the incident is reported to any agent or employee of the employer.~~
- D.** ~~Each report required by this Section shall relate the following information: Establishment name, location of incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.~~

R20-5-638. Failure to Keep Records or Reports Repealed

~~Failure to maintain records or file reports required by rules R20-5-630 through R20-5-645, inclusive, or in the details required by forms and instructions issued under those rules, may result in the issuance of citations and assessment of penalties as provided for in A.R.S. §§ 23-415, 23-417, 23-418 of the Act.~~

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R20-5-639. Change of Ownership Repealed

Where an establishment has changed ownership, the employer shall be responsible for maintaining records and filing reports only for that period of the year during which he owned such establishment. However, in the case of any change in ownership, the employer shall preserve those records, if any, of the prior ownership which are required to be kept under this part. These records shall be retained at each establishment to which they relate, for the period or remainder thereof required under rule R20-5-635.

R20-5-640. Petitions for Recordkeeping Exceptions Repealed

- A.** Submission of petition. Any employer, except a public agency, who wishes to maintain records in a manner different from that required by this part may submit a petition containing the information specified in subsection (C) of this Section to the Regional Commissioner of the Bureau of Labor Statistics wherein the establishment involved is located. Any public agency who wishes to maintain records in a manner different from that required may submit a petition to the Industrial Commission of Arizona. This petition must contain the information specified in subsections (C)(1) through (C)(5) of this Section.
- B.** Opportunity for comment. Affected employees or their representatives shall have an opportunity to submit written data, views, or arguments concerning the petition to the Regional Commissioner involved within 10 working days following the receipt of notice under subsection (C)(5) of this Section.
- C.** Contents of petition. A petition filed under subsection (A) of this Section shall include:
1. The name and address of the applicant;
 2. The address of the place or places of employment involved;
 3. Specifications of the reasons for seeking relief;
 4. A description of the different recordkeeping procedures which are proposed by the applicant;
 5. A statement that the applicant has informed his affected employees of the petitions by giving a copy thereof to them or to their authorized representative and by posting a statement giving a summary of the petition and by other appropriate means. A statement posted pursuant to this subsection shall be posted in each establishment in the same manner that notices are required to be posted under rule R20-5-609(A) of this Article. The applicant shall also state that he has informed his affected employees of their rights under subsection (B) of this Section;
 6. In the event that an employer has more than 1 establishment he shall submit a list of the states in which such establishments are located and the number of establishments in each such state. In the further event that certain of the employer's establishments would not be affected by the petition, the employer shall identify every establishment which would be affected by the petition and give the state in which they are located.
- D.** Referrals to Assistant Commissioner. Whenever a Regional Commissioner receives a petition from an employer having 1 or more establishments beyond the geographic boundary of his region, or a petition from a class of employers having any establishment beyond the boundary of his region, he shall refer the petition to the Assistant Commissioner for action.
- E.** Additional notice, conferences
1. In addition to the actual notice provided for in subsection (C)(5) of this Section, the Assistant Commissioner, the Regional Commissioner, or the Industrial Commission of Arizona, as the case may be, may provide, or cause to be provided, such additional notice of the petition as he may deem appropriate.
 2. The Assistant Commissioner, the Regional Commissioner, or the Industrial Commission of Arizona, as the case may be, may also afford an opportunity to interested parties for informal conference or hearing concerning the petition.
- F.** Action. After review of the petition, and of any comments submitted in regard thereto, and upon completion of any necessary appropriate investigation concerning the petition, if the Regional Commissioner, Assistant Commissioner, or the Industrial Commission of Arizona, as the case may be, finds that the alternative procedure proposed will not hamper or interfere with the purposes of the Williams-Steiger Occupational Safety and Health Act of 1970, or the Arizona Occupational Safety and Health Act of 1972, with amendments effective August 27, 1977, and will provide equivalent information, he may grant the petition subject to such conditions as he may determine appropriate, and subject to revocation for cause.
- G.** Publication
1. Whenever any relief is granted to an applicant under this Williams-Steiger Occupational Safety and Health Act of 1970, notice of such relief, and the reasons therefor, shall be published in the Federal Register.
 2. Whenever any relief is granted to an applicant under the Arizona Occupational Safety and Health Act of 1972, with amendments effective August 27, 1977, notice of such relief, and the reasons therefor, shall be published in statewide newspapers.
- H.** Revocation. Whenever any relief under this Section is sought to be revoked for any failure to comply with the conditions thereof, an opportunity for informal hearing or conference shall be afforded to the employers and affected employees or their representatives. Except in cases of willfulness or where public safety or health requires otherwise, before the commencement of any such informal proceeding, the employer shall:
1. Be notified in writing of the facts or conduct which may warrant the action; and
 2. Be given an opportunity to demonstrate or achieve compliance.

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- I.** ~~Compliance after submission of petitions. The submission of a petition or any delay by the Regional Commissioner, the Assistant Commissioner, or the Industrial Commission of Arizona, as the case may be, in acting upon a petition shall not relieve any employer from any obligation to comply with this part. However, the Regional Commissioner, the Assistant Commissioner, or the Industrial Commission of Arizona, as the case may be, shall give notice of the denial of any petition within a reasonable time.~~
- J.** ~~Consultation. There shall be consultation between the appropriate representatives of the Industrial Commission of Arizona, the Federal Occupational Safety and Health Administration and the Bureau of Labor Statistics in order to ensure the effective implementation of this Section.~~

R20-5-641. Employees Not in Fixed Establishments Repealed

~~Employers of employees engaged in physically dispersed operations such as occur in construction, installation, repair or service activities who do not report to any fixed establishment on a regular basis but are subject to common supervision may satisfy the provisions of rules R20-5-631, R20-5-633 and R20-5-635 with respect to such employees by:~~

- ~~1. Maintaining the required records for each operation or group of operations which is subject to common supervision (field superintendent, field supervisor, etc.) in an established central place;~~
- ~~2. Having the address and telephone number of the central place available at each worksite; and~~
- ~~3. Having personnel available at the central place during normal business hours to provide information from the records maintained there by telephone and by mail.~~

R20-5-642. Small Employers Repealed

~~An employer who had no more than 10 full-time, part-time, or seasonal employees at any time during the calendar year immediately preceding the current calendar year need not comply with any of the requirements of this part except the following:~~

- ~~1. Obligation to report under R20-5-637 concerning fatalities or multiple hospitalization accidents; and~~
- ~~2. Obligations to maintain a log of occupational injuries and illnesses under R20-5-631 and to make reports under R20-5-644 upon being notified in writing by the Bureau of Labor Statistics that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.~~

R20-5-643. Description of Statistical Program Repealed

~~Section 24 of the Williams-Steiger Occupational Safety and Health Act of 1970 directs the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. The Commissioner of the Bureau of Labor Statistics has been delegated this authority by the Secretary of Labor. The program shall consist of periodic surveys of occupational injuries and illnesses.~~

R20-5-644. Duties of Employers Repealed

~~Upon receipt of an Occupational Injuries and Illnesses Survey Form, OSHA No. 200-S, the employer shall promptly complete the form in accordance with the instructions contained therein and return it in accordance with the aforesaid instructions.~~

R20-5-645. Effect of State Plans Repealed

~~Nothing in any State Plan approved under Section 18(c) of the Williams-Steiger Occupational Safety and Health Act shall affect the duties of employers to submit statistical report forms under Rule R20-5-644.~~